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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,442	09/19/2003	Kendra J. Gallup	10030566-1	8324

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EXAMINER

JACKSON JR, JEROME

ART UNIT

PAPER NUMBER

2815

NOTIFICATION DATE

DELIVERY MODE

06/04/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/666,442	<b>Applicant(s)</b> GALLUP ET AL.	
	<b>Examiner</b> Jerome Jackson Jr.	<b>Art Unit</b> 2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30 is/are allowed.
- 6) ☒ Claim(s) 2-7, 17-22 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/27/08;3/18/08</u> .                                         | 6) <input type="checkbox"/> Other: _____                          |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/18/08 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 5, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent for "the contact pad" in claims 25 and 26. There is no proper antecedent for "the contact pad" in claim 5.

Claims 3, 7, 17, 20-22 and 27-29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hauer et al, EP 0 942 302 A2.

Hauer figure 2 discloses a substrate 200; planarization layer 1; top layer 2; alignment post 310; a lens 15; and wherein the Hauer device can function in the manner claimed. Claim 17 is anticipated or at least obvious depending on one's interpretation of the functional language in the claims. Claim 20 is rejected as the alignment post 310 is a hollow cylinder shape. Claim 21 is rejected as the post is solid and transparent for certain wavelengths unspecified in the claims. Claim 22 is rejected as the post 310

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outer diameter is an "alignment feature". Claim 3 is rejected because the devices 5, 12 and 60 need ohmic contacts to function and therefore metal layers or "interconnects" would be obvious on layers 1 or 2 to provide voltage bias. Claim 7 is rejected because circuits 5, 12 or 60 can be labeled active or passive circuits. There are no specific circuits claimed distinguishing over Hauer. Claims 27-29 are also rejected as above.

Claims 2-5, 7, 17, 20-22, 24 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauer with Mueller-Fiedler 5,577,142 (MF) and .

The transparent substrates in Hauer are apparently silicon, however, MF discloses other transparent materials such as glasses (col.2 lines 48-51) are advantageous and obvious alternative materials. Additionally a silicon substrate as a "circuit board" is also obvious and advantageous from MF for precision packaging. Accordingly claims 2, 4 and 24 are obvious structure. Moreover, MF discloses contact pad arrangements and interconnects and suggests their practice in Hauer to provide voltage bias to the various devices. Claims 3 and 5 are obvious structure.

Claims 2-7, 17-22, 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauer with MF and further in view of Wang 6,947,224 and Johnson WO 01/01497.

Johnson as previously applied for contact pads, plugs, and sealing rings in these structures for hermetic sealing and applying necessary voltages, and Wang for particular advantageous lens structures as "bifocal diffractive" or "hybrid diffractive/refractive". Claims 6, 18 and 19, and 25 and 26 are obvious structure.

Claims 30 is allowed.

Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Jackson Jr. whose telephone number is 571-272-1730. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Parker can be reached on 571-272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jerome Jackson Jr./

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